IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.W.P. No: 1906 of 2007

Date of decision: 21.11.2007

Janta Middle School ..Petitioner

Versus

State of H.P. and another ..Respondents

Mr.Subhash Sharma, counsel for the petitioner

Mr. R.M. Bisht, Deputy Advocate General for respondent No.1.

Mr.Lovneesh Kanwar, counsel for respondents No 2.

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice V. K. Ahuja, Judge.

Whether approved for reporting?[1]

Per **Deepak Gupta, J.(Oral)**

The petitioner has approached this court with a prayer that the respondent-H.P. Board of School Education (hereinafter referred to as the Board) be directed to grant affiliation to the school of the petitioner.

It would be pertinent to mention that one of us (Deepak Gupta, J.) had disposed of CWP No. 92 of 2006 on 25.5.2006 and in the said judgment had given certain

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

directions to the Board. The direction which is relevant for the decision of the aforesaid cases is as follows:-

> "That for the academic session 2007-2008 commencing in April, 2007 and thereafter all applications for affiliation by schools should be invited by the Board by issuing advertisements in the month of November of the year previous to the academic year for which affiliation is sought in leading newspapers being widely circulated in Himachal Pradesh (three English and three Hindi) requiring that the applications for affiliation should be submitted to the Board by 31st December of the year prior to the year for which affiliation is sought that is to say that for the academic year 2007-2008 the applications for affiliation should be submitted to the Board by 31st December, 2006 and no application for affiliation should be entertained thereafter under any circumstances."

In compliance to the aforesaid judgment, the respondent Board amended these regulations and the relevant amended regulation is as follows:

> "16.4.1. Application for affiliation by schools shall be invited by the Board by issuing advertisements in the month of November of the year previous to the academic year for which affiliation is sought in leading news papers being widely circulated in Himachal Pradesh (three English & three Hindi) requiring that the application for affiliation should be submitted to the Board by 31st December of the session prior to the year for which affiliation is sought and no application for affiliation shall

be entertained thereafter. However, the Chairman shall have the power to decide any delay cases on merits."

A number of schools did not apply for affiliation for the academic session 2007-2008 on or before 31st December, 2006. A large number of writ petitions were filed which were disposed of by us with the following observations :-

> **"**Keeping in view the fact that career of students is involved and the petitioner educational institutions are being run for some length of time, we allow the aforesaid writ petitions and direct that the applications submitted by the petitioners therein pursuant to the interim orders passed by this court shall be considered by the Board in accordance with law. In case these schools comply with all the parameters, they shall be granted affiliation and affiliation shall not be rejected only on the ground that their applications were received late. This is, however, subject to the condition that all these petitioners shall pay Rs.2,000/- each as costs to the respondent Board by bank draft only on or before 31st March, 2007. In those cases in which no interim orders have been passed, the petitioners shall submit their applications on or before 31st March, 2007. These applications shall be submitted by hand to the Board.
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> The second class of cases is of those persons who have applied to the Board after 2nd January and

before 31st January, 2006. These are the petitioners in CWP Nos. 169, 219, 220, 221, 234, 266, 267, 263, 296, 298, 299, 300, 325, 320, 323 and 118 of 2007. For the reasons given above and keeping in view the fact that we propose by order of the court to extend the period for filing the applications for grant of affiliation for the academic year 2007-2008 till 31st March, 2007, we allow these writ petitions also. However, the petitioners in these cases shall pay costs of Rs. 5,000/- each.

The last category of cases relate to those persons who have applied in February, 2007, i.e. petitioners in CWP Nos. 215, 248, 265 and 292 of 2007 or have not applied till filing of the petitions, such as the petitioners in CWP Nos. 183, 297 and 321 of 2007. They shall also be governed by the same order, but subject to the condition that they shall pay costs of Rs. 10,000/- each.

Keeping in view the fact that we have permitted the petitioners to file their applications on or before 31st March, 2007, we feel that it would be inequitable to not grant similar benefit to those institutions/schools which have not approached this court till date. We therefore, direct that if any other school or society which has not even filed any writ petition(s) applies to the Board on or before 31st March, 2007, their applications shall be entertained subject to payment of Rs.20,000/- as late fees."

We had also given directions that the costs/late fees awarded will be deposited alongwith the applications and had given certain directions to the Board as to how the same has to be invested. The parties before us are in agreement that the present writ petition is squarely covered by the aforesaid judgments. The only difference is that in the present case the school did not even care to apply for affiliation upto 31st March, 2007, the cut off date fixed by us in the earlier writ petitions and has filed the application for grant of affiliation much later. The only explanation given is that the petitioner was not aware about the fixation of the cut off date(s).

The petitioner-school before us has been established for a large number of years. Large number of students are studying in the schools. The school is also employing large number of teachers and other employees. We, therefore, in the interest of the students and the employees and for the reasons recorded in CWP No. 103 of 2007, accept this writ petition and direct that the present petitioner may file its application for grant of affiliation to the Board on or before Ist December, 2007. This, however, will be subject to the petitioner school depositing a sum of Rs. 40,000/- as late fees. The late

fees is being imposed because of the gross negligence and total inaction on the part of the administrators of the school. The costs/ late fees awarded will be deposited alongwith the application for grant of affiliation. The petitioner school shall deposit the costs/ late fees by a demand draft drawn in favour of the H.P. Board of School Education payable at Dharamsala. We make it absolutely clear that this amount shall not be recovered from the students in any form, whether by enhancement of tuition fee or charging any fund by any name whatsoever. This amount shall be paid by the school and not taken into consideration while fixing the fees.

The Board shall utilize this late fees in accordance with the directions issued by us in the judgment rendered in CWP No. 103 of 2007, dated 14.3.2007.

In view of the fact that we have extended the time for filing the application till Ist December, 2007, the Board may complete the procedural formalities of inspection and grant of affiliation by 15th December, 2007.

The writ petition is disposed of in the aforesaid terms. All the pending applications in the writ petition are also disposed of.

Copy dasti.

(Deepak Gupta), J.

November 21, 2007(K) (V. K. Ahuja),J.